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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENJI INOUE

Appeal 2010-000092
Application 10/800,580
Technology Center 1700

Decided: April 23, 2010

Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and
MARK NAGUMO, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 and 5. We have jurisdiction under 35 U.S.C. § 6(b).

Claim 1 is illustrative:

1. A wet paper transfer belt for use in the press part of a closed draw papermaking machine, comprising a base body, a wet paper web side layer having a wet paper web side surface, and a machine side layer, wherein said wet paper web side layer comprises an elastic section consisting of urethane resin and a fiber body, fibers composed of a part of the fiber body are exposed on said wet paper web side surface, and substantially all of the fibers exposed on said wet paper web side surface are hydrophilic and said exposed fibers are capable of holding an amount of water from a wet paper web in contact with the wet paper web side surface of the transfer belt sufficient to attach the wet paper web to the transfer belt for transfer of the wet paper web from the press part to a next stage in the papermaking machine.

The Examiner relies upon the following references as evidence of obviousness (Ans. 3):

Hagfors 2002/0137416 A1 Sep. 26, 2002

Appellant's claimed invention is directed to wet paper transfer belt that is used in the press part of a closed draw papermaking machine. The belt has a wet paper web side layer that comprises an elastic section consisting of urethane resin and a fiber body. Fibers of the fiber body are exposed on the wet paper web side surface of the belt. Substantially all of the exposed fibers are hydrophilic and facilitate the attachment of the wet paper web to the belt for transfer to the next stage in the papermaking machine.

Appealed claims 1 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hagfors.

Appellant does not present a separate argument for dependent claim 5. Accordingly, claims 1 and 5 stand or fall together.

We have thoroughly reviewed each of Appellant's arguments for patentability, as well as the Declaration evidence relied upon in support

thereof. However, we are in complete agreement with the Examiner that Hagfors describes the claimed subject matter within the meaning of § 102. Accordingly, we will sustain the Examiner's rejection.

There is no dispute that Hagfors describes, like Appellant, a web paper transfer belt for use in the press part of a closed draw papermaking machine comprising a wet paper web side layer comprising an elastic section consisting of urethane resin and a fiber body having fibers that are exposed on the wet paper web side surface. The central issue on appeal is whether Hagfors discloses that substantially all of the exposed fibers are hydrophilic. Appellant urges that Hagfors teaches that some of the exposed fibers must be hydrophilic and other exposed fibers must be hydrophobic.

We agree with the Examiner that although Hagfors certainly teaches that the hydrophilic and hydrophobic areas of the wet paper web side layer of the belt may comprise hydrophilic and hydrophobic fibers, the reference also fairly teaches that the hydrophilic area of the surface may comprise hydrophilic fibers and the hydrophobic areas comprise a hydrophobic, impregnating matrix polymer in which the hydrophilic fibers are embedded.

Hagfors does not teach that the exposed fibers must be hydrophilic and hydrophobic. Rather, the reference expressly discloses that “[t]he fibres may differ from one another with respect to their polarity, hydrophilicity, electric charge, surface energy, friction properties or porosity, the transfer belt surface being thus provided with areas having different properties” ([0008]). The clear inference from this passage is that the exposed fibers need not differ with respect to hydrophilicity. Also, Hagfors teaches that the hydrophilicity or hydrophobicity of the polymer used for the impregnation of the fibers “is preferably substantially different than that of the fibre used”

([0016]). Furthermore, as pointed out by the Examiner, Hagfors exemplifies a transfer belt wherein all of the exposed fibers are hydrophilic polyamides and the polymer matrix is a hydrophobic, polycarbonate urethane (*see EXAMPLE 2*). Still further, the reference discloses that

[a]nother essential aspect of the invention is that the fibre batt layer material and the polymer layer chosen for the belt are used for forming different areas having differing surface properties due to which water tends to collect in some areas of the transfer belt and to leave others, thereby allowing the fibre web to be more easily detached from the surface of the transfer belt

([0023]). Accordingly, when EXAMPLE 2 of Hagfors is read in the context of the entirety of the disclosure, we agree with the Examiner that the exemplified embodiment describes exposed fibers that are substantially all hydrophilic, as presently claimed.

Appellant contends that EXAMPLE 2 of Hagfors is in error in that the third group of polyamide fibers disclosed in the Example are not polyamide fibers, but hydrophobic fibers such as polyethylene. Appellant asserts that this interpretation of the reference is supported by the Declaration of the applicant which “demonstrates that, despite the vagueness of Hagfors’ description, a person skilled in the art of papermaking belts would not understand Hagfors to describe anything other than a transfer belt having both hydrophilic and hydrophobic fibers exposed on the wet paper web contacting side” (App. Br. 15, first full para.). The Declarant, who is also the present applicant, states that although EXAMPLE 2 of Hagfors describes all fibers as hydrophilic, “the description in paragraphs 0012, 0013, Figure 2, and Claim 1 of the published patent application, lead to no other conclusion

than that the ‘hydrophobic’ areas of Hagfors’ wet paper web transfer belt are due to the presence of ‘hydrophobic’ fibers” (Decl. 2, para. 6).

The Declaration, however, is of little probative value since it fails to discuss the relevant portions of Hagfors discussed above, namely, paragraphs 0016 and 0023. In particular, the Declarant does not address the reference’s explicit disclosure that the hydrophilicity or hydrophobicity of the matrix polymer is preferably substantially different than that of the exposed fibers, nor does the Declarant explain the meaning of the reference disclosure that the exposed fibers and matrix polymer are chosen for forming different areas of the belt that have differing surface properties which allows water to collect in some areas and not others. Consequently, since the Declaration of the applicant does not address the entirety of the reference disclosure, it does not establish that EXAMPLE 2 of the reference is in error, or inoperable. It is well settled that a published US patent enjoys a presumption of validity and operability, and that the burden on Appellant to prove otherwise is not insubstantial. *Univ. of Rochester v. G.D. Searle & Co., Inc.*, 358 F.3d 916, 920 (Fed. Cir. 2004); *In re Spence*, 261 F.2d 244, 246 (CCPA 1958). In the present case, Appellant’s Declaration evidence is not of sufficient probative value to overcome the presumption that EXAMPLE 2 of Hagfors describes a belt surface wherein all the fibers are hydrophilic polyamides and are embedded in a hydrophobic polymer matrix which together provide the hydrophilic and hydrophobic areas, respectively.

In conclusion, based on the foregoing, the Examiner’s decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (2008).

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AFFIRMED

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